

To: Bodine, Susan[bodine.susan@epa.gov]
From: Smith, Brooks M.
Sent: Wed 2/21/2018 3:43:23 PM
Subject: RE: report language
[CWA report language.pdf](#)

I clearly need a metadata crash-course. Clean version attached. Best! Brooks

Brooks M. Smith
troutman sanders
Direct: 804.697.1414
brooks.smith@troutman.com

From: Bodine, Susan [mailto:bodine.susan@epa.gov]
Sent: Wednesday, February 21, 2018 10:30 AM
To: Smith, Brooks M. <Brooks.Smith@troutmansanders.com>
Subject: RE: report language

The document lists Michael Kafka as the author.

From: Smith, Brooks M. [mailto:Brooks.Smith@troutmansanders.com]
Sent: Wednesday, February 21, 2018 10:21 AM
To: Bodine, Susan <bodine.susan@epa.gov>
Subject: report language

Just so you don't think I've lost my mind on CWA, UIC and RCRA basics, here's the version that I worked on and that reflects the latest thinking on possible report language. I'd welcome your input on substance and strategy for addressing the issue in this manner. Best! Brooks

Brooks M. Smith
Direct: 804.697.1414

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To: Bodine, Susan[bodine.susan@epa.gov]
From: Smith, Brooks M.
Sent: Wed 2/21/2018 3:21:17 PM
Subject: report language
[CWA report language.pdf](#)

Just so you don't think I've lost my mind on CWA, UIC and RCRA basics, here's the version that I worked on and that reflects the latest thinking on possible report language. I'd welcome your input on substance and strategy for addressing the issue in this manner. Best! Brooks

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To: Press[Press@epa.gov]
From: David LaRoss
Sent: Wed 2/14/2018 8:15:44 PM
Subject: Groundwater "Conduit" comments

I've been told that EPA has posted online a document soliciting public comments on whether pollution releases that travel through a "direct conduit" of groundwater to surface waters can be regulated under the CWA -- which has been the subject of many ongoing court cases, most recently in the 9th Circuit. But I can't find any active webpage on the issue. Can you send a copy of the document or the link to where it's posted?

Thanks.

To: Dravis, Samantha[dravis.samantha@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Mark Ryan[mr@ryankuehler.com]
From: Brown, Samuel L.
Sent: Mon 12/4/2017 1:26:55 AM
Subject: Logistics | ELI Conference: EPA Policy Goals, Regulatory Reform, and Enforcement: What Does the Future Hold?
[Policy and Enforcement Panel Overview \(ELI-ALICLE\).docx](#)

Hi Samantha, Patrick, and Mark,

I am looking forward to seeing you tomorrow afternoon, Monday, December 4. A reminder that our panel discussion is **3:00pm-4:30pm**. If possible, please try and be there by 2:45pm so we can go over a few logistical items. The event is at the Hunton & Williams DC office at 2200 Pennsylvania Avenue, NW (on Washington Circle). When you arrive, take the elevator up to the 9th Floor.

If you have any questions tomorrow, please feel free to call or text my cell at

Ex. 6 - Personal Privacy

Thank you again for your participation in this event!

- Sam

From: Brown, Samuel L.
Sent: Sunday, November 05, 2017 8:13 PM
To: Dravis, Samantha; 'Traylor, Patrick'; 'Mark Ryan'
Subject: ELI Conference | EPA Policy Goals, Regulatory Reform, and Enforcement: What Does the Future Hold?

Hi Samantha, Patrick, and Mark,

Thank you again for agreeing to participate in the ELI and ALI-CLE conference on the Clean Water Act in Washington D.C. on Monday, December 4 from 3:00pm – 4:30pm.

Attached is an overview of how I am thinking to structure our panel. The attachment includes representative moderated questions that I would suggest that I tee up for discussion. Again, the thought is no slide decks, just moderated discussion and then Q&A with the audience. I welcome your input and suggestions, in particular on the moderated questions. I welcome any subject matter that you would like to highlight or discuss. Samantha/Patrick, I understand there may be subject matter that is sensitive that you would like to not discuss, so I can tailor the conversation around any concerns that you may have.

I think it makes sense to have a short call to touch base. Does Wednesday or Friday this week work for you? Samantha/Patrick, if you have schedulers I am happy to work with them to get 30 minutes on your calendars.

Thanks so much and talk to you soon! – Sam

HUNTON & WILLIAMS **Samuel Brown**

Senior Attorney

slbrown@hunton.com

p 415.975.3714

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[bio](#) | [vCard](#)

Hunton & Williams LLP
50 California Street
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hunton.com

To: Dravis, Samantha[dravis.samantha@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Mark Ryan[mr@ryankuehler.com]
From: Brown, Samuel L.
Sent: Mon 11/13/2017 5:37:11 AM
Subject: RE: ELI Conference | EPA Policy Goals, Regulatory Reform, and Enforcement: What Does the Future Hold?
[Policy and Enforcement Panel Overview \(ELI-ALICLE\).docx](#)

Hi Samantha, Patrick, and Mark,

I am following up on the email below. Does sometime this week work for you for a 30 minute call to touch base on the panel? I'll be in Georgia most of this week for work, so on EST.

Thanks!

– Sam

From: Brown, Samuel L.
Sent: Sunday, November 05, 2017 8:13 PM
To: Dravis, Samantha; 'Traylor, Patrick'; 'Mark Ryan'
Subject: ELI Conference | EPA Policy Goals, Regulatory Reform, and Enforcement: What Does the Future Hold?

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Thanks so much and talk to you soon! – Sam

HUNTON & WILLIAMS **Samuel Brown**

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To: Greenwalt, Sarah[greenwalt.sarah@epa.gov]
Cc: Dominguez, Alexander[dominguez.alexander@epa.gov]
From: Bennett, Karen C.
Sent: Thur 11/16/2017 6:56:55 PM
Subject: FW: NPDES/Groundwater Information
[NMA Coalition 4th Circuit Kinder Morgan Amicus Brief.pdf](#)

Please see attached amicus brief at pages 12-19.

Karen C. Bennett

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Environmentalists Say EPA Policies Boost Suit Seeking CWA Ash Controls

October 31, 2017

Environmentalists are invoking past EPA policies to boost their lawsuit claim that the Clean Water Act (CWA) limits coal ash pollution that travels through groundwater to protected surface waters, in order to win judicial deference for that position and arguing that such a decision would be hard for the Trump administration to avoid.

An [Oct. 30 brief](#) from Waterkeeper Alliance and 15 local or regional environmental groups says the U.S. Court of Appeals for the 4th Circuit must uphold CWA authority over ash leaks to groundwater with a “direct” connection to surface waters, in part because EPA has backed that reading of the water law and courts should defer to it. The groups hope their suit sets a precedent forcing controls on ash to avoid groundwater contamination.

“That is EPA’s longstanding and consistent interpretation of the Act, articulated in multiple notice-and-comment rulemakings since 1990, applied through the issuance of permits carrying the force of law, and reiterated in numerous administrative and judicial forums. EPA’s interpretation is entitled to *Chevron* deference,” the brief says.

Under the *Chevron* principle, courts will defer to an agency’s reading of ambiguous statutory text as long as that interpretation is reasonable. Waterkeeper and its allies, filing as *amicus* parties in the 4th Circuit case *Sierra Club v. Virginia Electric Power Company (VEPCO)*, say that even though EPA is not involved in the case, its past positions on CWA limits on groundwater releases are well-founded and deserve deference.

For instance, they cite a 1990 rule on stormwater runoff that says, “discharges to ground waters are not covered by this rulemaking (unless there is a hydrological connection between the ground water and a nearby surface water body).”

It also quotes the 1998 iteration of the CWA general permit for construction stormwater as saying, “EPA interprets the

CWA's [National Pollutant Discharge Elimination System (NPDES)] permitting program to regulate discharges to surface water via groundwater where there is a direct and immediate hydrologic connection."

"EPA has stated its interpretation many times over several decades. There was no 'stealth' in doing so, given that EPA's interpretation and rationale were explained in multiple notice-and comment rulemakings and in the issuance of individual and general NPDES permits. . . . The Court should afford *Chevron* deference to EPA's well-reasoned, expert judgment because it is reasonable and consistent with the statute EPA administers," the brief says.

The environmentalist groups do not address the possibility that the Trump EPA could file its own *amicus* brief to try to reverse that position, which would undercut any attempt to win *Chevron* deference, since that principle applies only to agencies' interpretations of law rather than arguments by third parties.

EPA under the current administration has generally backed the energy sector's requests to limit the reach of the CWA, including proposing to repeal the Obama-era rule governing which waters are subject to the law's permit requirements and weighing a likely replacement that will be narrower in scope.

However, an environmental attorney says it is unlikely the court would see such a reversal as persuasive.

"It would be extremely hard for an agency with decades of repeated interpretation that matches what the courts have done and Congress' intent and the purpose of the statute to suddenly say 'we don't think so anymore,'" the attorney says.

EPA Deference

The attorney continues that if EPA were to simply express a new reading of the "point source" language in a court brief, it would not warrant deference when weighed against a history of formal rulemakings and other agency action. "If they just say it, then they really haven't reversed anything."

A reversal that goes through notice-and-comment rulemaking would carry more weight, the attorney says, but such a rulemaking would be unlikely to finish before the 4th Circuit rules in *VEPCO*.

Environmentalists in the *VEPCO* suit are urging the 4th Circuit to preserve and strengthen a district court's ruling that the power company violated the CWA when arsenic and other pollutants leaked from a coal ash disposal site its Possum Point, VA, facility into groundwater, and was then carried to surface waters.

The CWA does not govern groundwater quality directly, but Sierra Club and its allies say that when the sub-surface channels create a direct connection to surface waters, releases to that groundwater can be subject to the law's permit mandates for "point sources."

"To be clear, EPA's position -- and the position advanced here by Waterkeeper *Amici* -- is not that groundwater is a point source or a water of the United States. Rather, in certain situations groundwater may be sufficiently hydrologically connected to surface water such that the groundwater acts as a conveyance between the point source and the jurisdictional water," the brief says.

Beyond the 1990 and 1998 rules, the environmentalists argue that EPA included similar language in the proposed version of a 2003 CWA rule expanding the universe of animal feedlots subject to NPDES permits, and has used those principles in permitting decisions.

While *VEPCO* and its allies have argued that EPA "disavowed" that line of thinking since the final feedlot rule relied instead on case-by-case findings, Waterkeeper and its allies say that was not the case.

Rather, they note, EPA said in a 2008 rule crafted to replace the 2003 version in response to a court remand that "nothing in the 2003 rule was to be construed to expand, diminish, or otherwise affect the jurisdiction of the CWA over discharges to surface water via groundwater that has a direct hydrologic connection to surface water."

Similarly, the brief argues that even though EPA is proposing to withdraw its 2015 CWA jurisdiction rule that allowed for consideration of groundwater connectivity in judging which discharges require permits, that regulation only noted

the agency's "longstanding interpretation" rather than adopting a new reading of the law.

"Quite obviously, the withdrawal of a rule that does nothing to 'change . . . or affect . . . [EPA's] longstanding position" also does not change or affect that position," the brief says. -- *David LaRoss* (dlaross@iwpnews.com)

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To: Ford, Peter[Ford.Peter@epa.gov]; Nagle, Deborah[Nagle.Deborah@epa.gov]; Lindley, Tom (Perkins Coie)[TLindley@perkinscoie.com]
Cc: Thomas, Christopher D. (Perkins Coie)[CThomas@perkinscoie.com]
From: Thomas, Christopher D. (Perkins Coie)
Sent: Sun 12/3/2017 10:46:57 PM
Subject: RE: ALI-ABA Water Law Conference/Preliminary Rough Script

Nonsense. I normally start preparing the night before in a bar, and I am way ahead of schedule for this one.

It appears Tom has no moderating obligations prior to our 1:30 session, so we could perhaps catch up in person tomorrow.

Also, I will be sending around a more complete rough script with prompts for the stuff on my list, which will include:

Ohio Valley Environmental Coalition & Columbia River Keeper: constructive submission.

U.S. v. Robertson: Ninth Circuit's case affirming criminal conviction for dredging and filling a WOTUS that apparently qualified only under the Kennedy test; the interesting part is that the panel's opinion reached that result by finding that the Kennedy test was a logical subset for the Scalia test, which seems highly naïve to me.

Ecological Rights Foundation v. PG&E: Ninth Circuit says RCRA citizen suits can be used to abate unregulated stormwater discharges, if they otherwise constitute an imminent and substantial endangerment.

Tennessee Clean Water Action Network v. TVA: now on appeal to the Sixth Circuit after the M.D. TN held that groundwater with a direct hydrologic connection to surface water does fall within the Clean Water Act's jurisdiction.

I have a few other less significant cases I can mention if time allows.

More substantively, I'd be interested in a discussion of how the TMDL process works in the West, especially with regard to impaired waters that are not normally wet and impacted by unregulated

stormwater flow. Does Friend of Pinto Creek really preclude new NPDES permits where there is no TMDL and little hope of developing one because of the orphan non-point sources? Pete, this was one of your old cases. Want to have a bit of discussion? I have no preconceived notions, other than confusion.

Best,

Chris Thomas | Perkins Coie LLP

PARTNER

2901 N. Central Avenue

Suite 2000

Phoenix, AZ 85012-8014

PHONE: 602-351-8045

FAX: 602-648-7036

E-MAIL: CThomas@perkinscoie.com

From: Ford, Peter [mailto:Ford.Peter@epa.gov]

Sent: Friday, December 01, 2017 12:58 PM

To: Nagle, Deborah; Lindley, Tom (WDC); Thomas, Christopher D. (PHX)

Subject: RE: ALI-ABA Water Law Conference/Preliminary Rough Script

Winging it with you all. Should be ok.

Peter Z. Ford

U.S. EPA Office of General Counsel

202.564.5593

From: Nagle, Deborah

Sent: Friday, December 01, 2017 2:54 PM

To: Lindley, Tom (Perkins Coie) <TLindley@perkinscoie.com>; Thomas, Christopher D. (Perkins Coie) <CThomas@perkinscoie.com>; Ford, Peter <Ford.Peter@epa.gov>

Subject: RE: ALI-ABA Water Law Conference/Preliminary Rough Script

I guess we are winging it – my calendar is also a mess for the rest of the day

-Deborah

Deborah G. Nagle, Acting Director
Office of Science and Technology
1200 Pennsylvania Ave, NW
Washington, DC 20460
Tel: (202) 564-1185

From: Lindley, Tom (Perkins Coie) [<mailto:TLindley@perkinscoie.com>]
Sent: Friday, December 01, 2017 1:46 PM
To: Nagle, Deborah <Nagle.Deborah@epa.gov>; Thomas, Christopher D. (Perkins Coie) <CThomas@perkinscoie.com>; Ford, Peter <Ford.Peter@epa.gov>
Subject: RE: ALI-ABA Water Law Conference/Preliminary Rough Script

Have not heard from Chris, and now my schedule is a total mess, so please either go ahead without me, or we will truly wing it!

From: Lindley, Tom (WDC)
Sent: Tuesday, November 28, 2017 2:55 PM
To: Nagle, Deborah
Cc: Thomas, Christopher D. (PHX); Ford, Peter
Subject: Re: ALI-ABA Water Law Conference/Preliminary Rough Script

Friday also works for me if between 11-2 Eastern

Sent from my mobile phone

On Nov 28, 2017, at 13:59, Nagle, Deborah <Nagle.Deborah@epa.gov> wrote:

Friday works for me.

Deborah

Deborah G. Nagle, Acting Director
Office of Science and Technology
1200 Pennsylvania Ave, NW
Washington, DC 20460
Tel: (202) 564-1185

From: Thomas, Christopher D. (Perkins Coie) [<mailto:CThomas@perkinscoie.com>]

Sent: Tuesday, November 28, 2017 3:36 PM

To: Lindley, Tom (Perkins Coie) <TLindley@perkinscoie.com>; Nagle, Deborah <Nagle.Deborah@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Subject: RE: ALI-ABA Water Law Conference/Preliminary Rough Script

Would Friday work for a preparatory call? I could also do Thursday, except for mid-day.

Chris Thomas | Perkins Coie LLP

PARTNER

[2901 N. Central Avenue](#)

[Suite 2000](#)

[Phoenix, AZ 85012-8014](#)

PHONE: [602-351-8045](tel:602-351-8045)

FAX: [602-648-7036](tel:602-648-7036)

E-MAIL: CThomas@perkinscoie.com

From: Thomas, Christopher D. (PHX)
Sent: Monday, November 27, 2017 1:58 PM
To: Lindley, Tom (WDC); Nagle, Deborah; Ford, Peter
Cc: Thomas, Christopher D. (PHX)
Subject: ALI-ABA Water Law Conference/Preliminary Rough Script

Tom, Deborah, and Pete:

This is still a work in progress, but attached is my initial attempt to script the first part of our presentation. Since I follow litigation much more closely than regulatory developments, I'm afraid I could not plug in the sum and substance of Deborah's likely response. There is also more to come in general. I will continue plugging away, but thought it might be useful for you to see what I had in mind before we perhaps get on a preparatory conference call.

Best,

Chris

Christopher Thomas | Perkins Coie LLP

PARTNER

E. CThomas@perkinscoie.com

<image001.jpg>

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To: Sawyers, Andrew[Sawyers.Andrew@epa.gov]
From: Julia Anastasio
Sent: Tue 2/20/2018 6:16:43 PM
Subject: RE: Follow-Up to Voicemail

Thanks. I will try to give you a buzz later this afternoon. Is there someone on your staff that Sean can work with to schedule a briefing?

Julia Anastasio

Executive Director & General Counsel

Association of Clean Water Administrators

202.756.0600 (O)

202.746.8017 (c)

Check out ACWA's Workshop Schedule: <https://www.acwa-us.org/events/>

From: Sawyers, Andrew [mailto:Sawyers.Andrew@epa.gov]
Sent: Tuesday, February 20, 2018 11:42 AM
To: Julia Anastasio <janastasio@acwa-us.org>
Cc: Sean Rolland <srolland@acwa-us.org>
Subject: RE: Follow-Up to Voicemail

Thanks Julia, sorry for the surprise - will be happy to discuss.

From: Julia Anastasio [mailto:janastasio@acwa-us.org]
Sent: Tuesday, February 20, 2018 11:40 AM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Cc: Sean Rolland <srolland@acwa-us.org>
Subject: Follow-Up to Voicemail
Importance: High

Andrew

I thought I would send a note to follow up on the voicemail message that I left you last week about the *Notice and Request for Comment* associated with *Clean Water Act Coverage of Discharges of Pollutants via Direct Hydrologic Connection to Surface Water*.

The notice took ACWA by surprise. We would like to find time for either you or someone on your staff to join our members on a call to discuss the FR notice and the issue.

Thanks.

Julia Anastasio

Executive Director & General Counsel

Association of Clean Water Administrators

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To: Sawyers, Andrew[Sawyers.Andrew@epa.gov]
Cc: Sean Rolland[srolland@acwa-us.org]
From: Julia Anastasio
Sent: Tue 2/20/2018 4:39:50 PM
Subject: Follow-Up to Voicemail

Andrew

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To: Ross, David[Ross.David@epa.gov]
Cc: Penman, Crystal[Penman.Crystal@epa.gov]
From: Paul Balserak
Sent: Thur 2/1/2018 4:41:16 PM
Subject: Speaking Request

Dear David,

I want to invite you to speak at AISI's Energy and Environment Committee meeting on February 28, 2018 at our offices in Washington DC. Three times a year, approximately 40-50 AISI member company federal representatives and environmental managers meet together to address a range of energy and environmental topics related to both the Hill and the Administration. We would love to hear from you, and at this point could accommodate pretty much any hour time slot during that day that works for you. The water policy issues of immediate interest to my members relate to the draft conductivity guidance from Dec 2016, the issue of conduit theory and, of course, the Waters of the US rulemaking effort. Our meeting actually runs through noon on March 1, so if Feb 28 is not convenient for you, please consider coming the morning of March 1. Thank you in advance for your consideration of this invite, David. Please feel free to reach me on either of the numbers below should you want to discuss any matter.

Best,

Paul

Paul Balserak

Vice President, Environment

American Iron and Steel Institute

25 Massachusetts Ave. NW, Suite 800

Washington, DC 20001

202 452-7122 (office)

703 969-1789 (mobile)

To: Julia Anastasio[janastasio@acwa-us.org]
From: Sawyers, Andrew
Sent: Tue 2/20/2018 9:17:55 PM
Subject: Re: Follow-Up to Voicemail

No - you and i should talk. There is a lot to this.

On Feb 20, 2018, at 4:15 PM, Julia Anastasio <janastasio@acwa-us.org> wrote:

Thanks. I will try to give you a buzz later this afternoon. Is there someone on your staff that Sean can work with to schedule a briefing?

Julia Anastasio

Executive Director & General Counsel

Association of Clean Water Administrators

202.756.0600 (O)

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Executive Director & General Counsel

Association of Clean Water Administrators

202.756.0600 (O)

202.746.8017 (c)

Check out ACWA's Workshop Schedule: <https://www.acwa-us.org/events/>

To: Wendelowski, Karyn[wendelowski.karyn@epa.gov]
From: LexisNexisDelivery@lexisnexis.com
Sent: Fri 2/23/2018 2:54:03 PM
Subject: Email:Amigos Bravos v. EPA_ 324 F.3d 1166
Amigos Bravos v. EPA_ 324 F.3d 1166.pdf

Delivery

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To: Wendelowski, Karyn[wendelowski.karyn@epa.gov]
From: LexisNexisDelivery@lexisnexis.com
Sent: Fri 2/23/2018 2:46:26 PM
Subject: Email:Amigos Bravos v. EPA_ 324 F.3d 1166
Amigos Bravos v. EPA_ 324 F.3d 1166.pdf

Delivery

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From: Stover, Michael
Location: Mt Roosevelt Ex. 6 - Personal Privacy Adobe Connect:
login as guest to <https://epawebconferencing.acms.com/r1tribalpdm/>
Importance: Normal
Subject: Monthly RTOC meeting
Start Date/Time: Wed 3/14/2018 2:00:00 PM
End Date/Time: Wed 3/14/2018 4:00:00 PM
[RTOC Draft AGENDA Mar 14 2018.docx](#)

Hello everyone,

Please see draft agenda attached, and please let me know if you have any additions or edits. A final agenda with supporting documents will be released prior to the call.

Mike Stover

Hello everyone,

This is a placeholder for monthly RTOC calls in 2018. An agenda, call-in information and supporting documentation will be provided prior to each monthly call.

Thanks!



Michael A. Stover, PE

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Indian Program Manager
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(617) 918-1123
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LC63142

From: Gude, Karen

Location: DCRoomEast2369B/DC-ICC-OW-IO; Conference Number: (202) 991-0477; ID

Ex. 6 - Personal Privacy

Normal

Subject: National Tribal Water Council - EPA Monthly Call

Start Date/Time: Wed 3/14/2018 6:00:00 PM

End Date/Time: Wed 3/14/2018 7:30:00 PM

[3-14-18 NTWC-EPA Monthly Call Draft Agenda.docx](#)

Please see draft agenda for 3/14 NTWC-EPA Call. Thank you.

From: Gude, Karen

Location: DCRoomEast2369B/DC-ICC-OW-IO; Conference Number: (202) 991-0477; ID

Ex. 6 - Personal Privacy

Importance: Normal

Subject: National Tribal Water Council - EPA Monthly Call

Start Date/Time: Wed 3/14/2018 6:00:00 PM

End Date/Time: Wed 3/14/2018 7:30:00 PM

3-14-18 NTWC-EPA Monthly Call Final Agenda.docx

NTWC_SSWR_3-14-18.pptx

Final agenda for 3/14 NTWC-EPA call is attached.

Attached also please find a PowerPoint presentation for EPA Office of Research and Development's session on the Strategic Research Action Plans, and the Safe and Sustainable Water Resources Research Program. Thank you.

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Proposed Congressional report language:

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Potential regulatory approach:

- Explain there is no overlap between RCRA and the CWA and that the new rule is intended to harmonize the two statutes with respect to releases to groundwater from CCR units.
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No. 17-1640

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AMERICAN IRON AND STEEL INSTITUTE, EDISON ELECTRIC
INSTITUTE, NATIONAL MINING ASSOCIATION, AND
UTILITY WATER ACT GROUP AS *AMICI CURIAE*
IN SUPPORT OF DEFENDANTS-APPELLEES AND AFFIRMANCE**

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Dated: September 8, 2017

Counsel for Amici Curiae

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Date: **Wednesday, March 14, 2018**

Time: 10:00am – 12:00pm **Location:** Mt Roosevelt (6th Floor)

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II. Update from Prior NTWC Call (*Ken Norton, NTWC*) (10 minutes)

III. EPA Office of Research and Development: Strategic Research Action Plans

(TENTATIVE: Monica Rodia, ORD) (20 minutes)

EPA's Office of Research and Development (ORD) has issued six Strategic Research Action Plans (StRAPs) laying out its research agenda. The plans may be of interest to the tribes, especially the Safe and Sustainable Water Resources Research Program, which includes significant nutrient work. Over the next six months, ORD will lead a refresh of its StRAPs, which affords a unique opportunity to engage with tribes during this research planning phase to build partnerships that can help ensure ORD will build tribal research capacity. These StRAPs will outline a four-year strategy, 2019 to 2022, for delivering research and results to support EPA's mission to protect human health and the environment. ORD will do this through interactions with tribes supported by a combination of teleconferences, in-person meetings, and informational sessions with EPA tribal partnership groups and RTOCs, ahead of tribal consultation.

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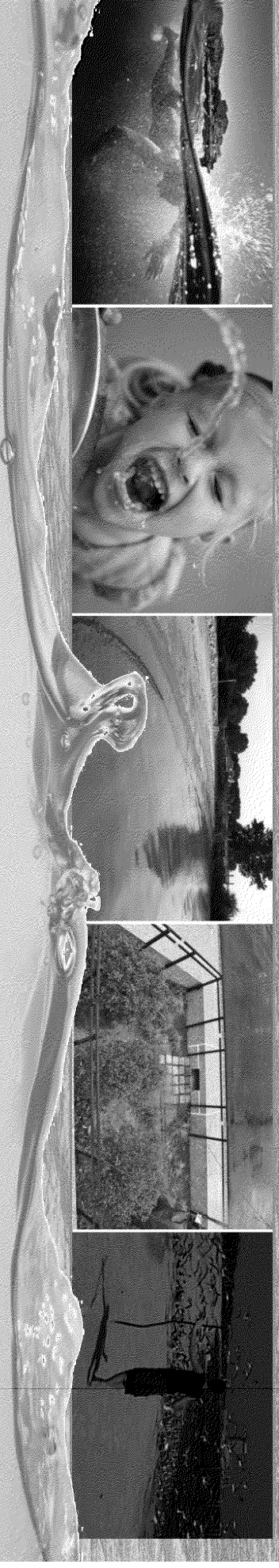
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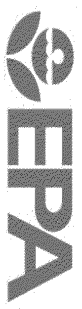
Office of Research and Development

SAFE AND SUSTAINABLE WATER RESOURCES RESEARCH PROGRAM

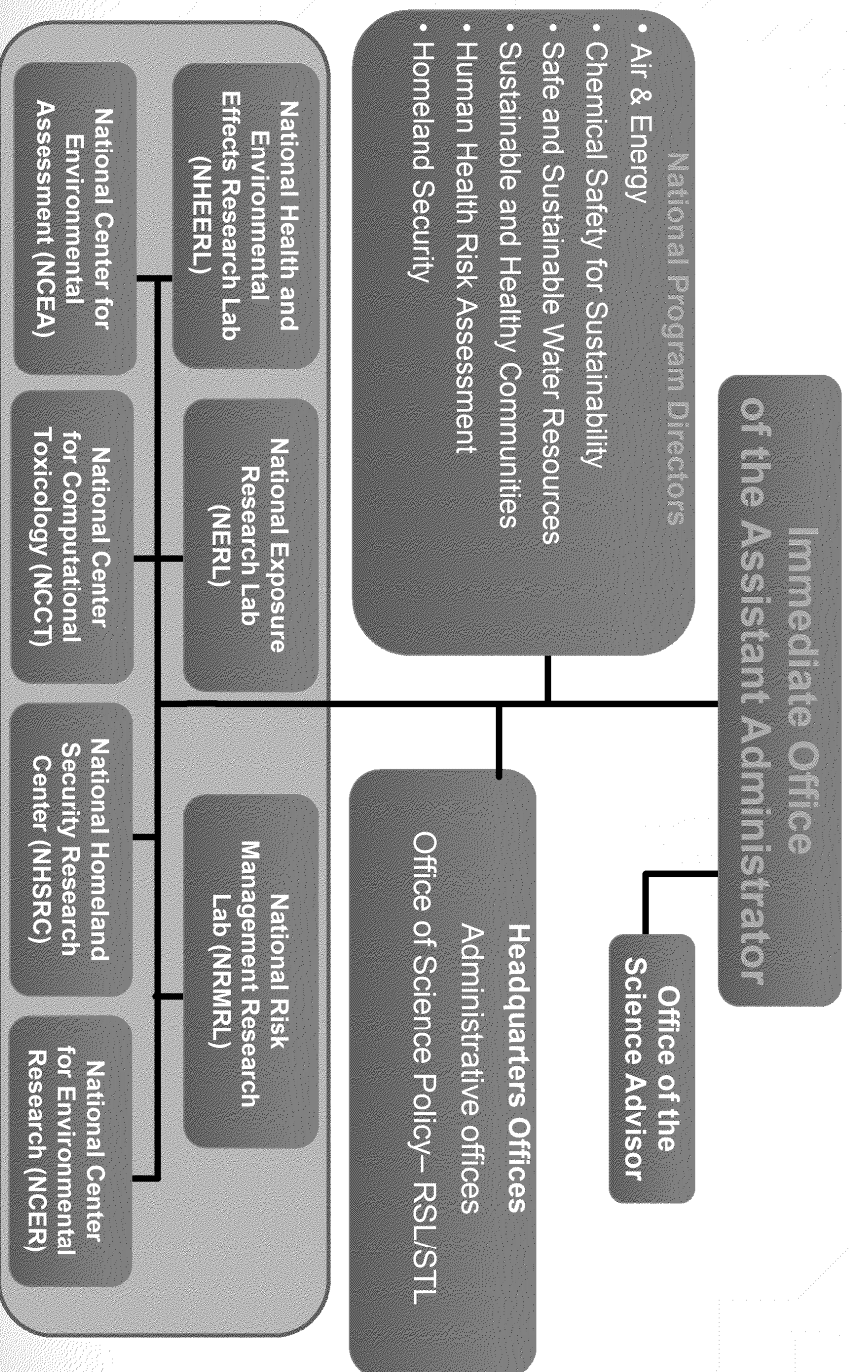


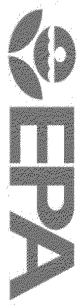
National Tribal Water Council

March 14, 2018

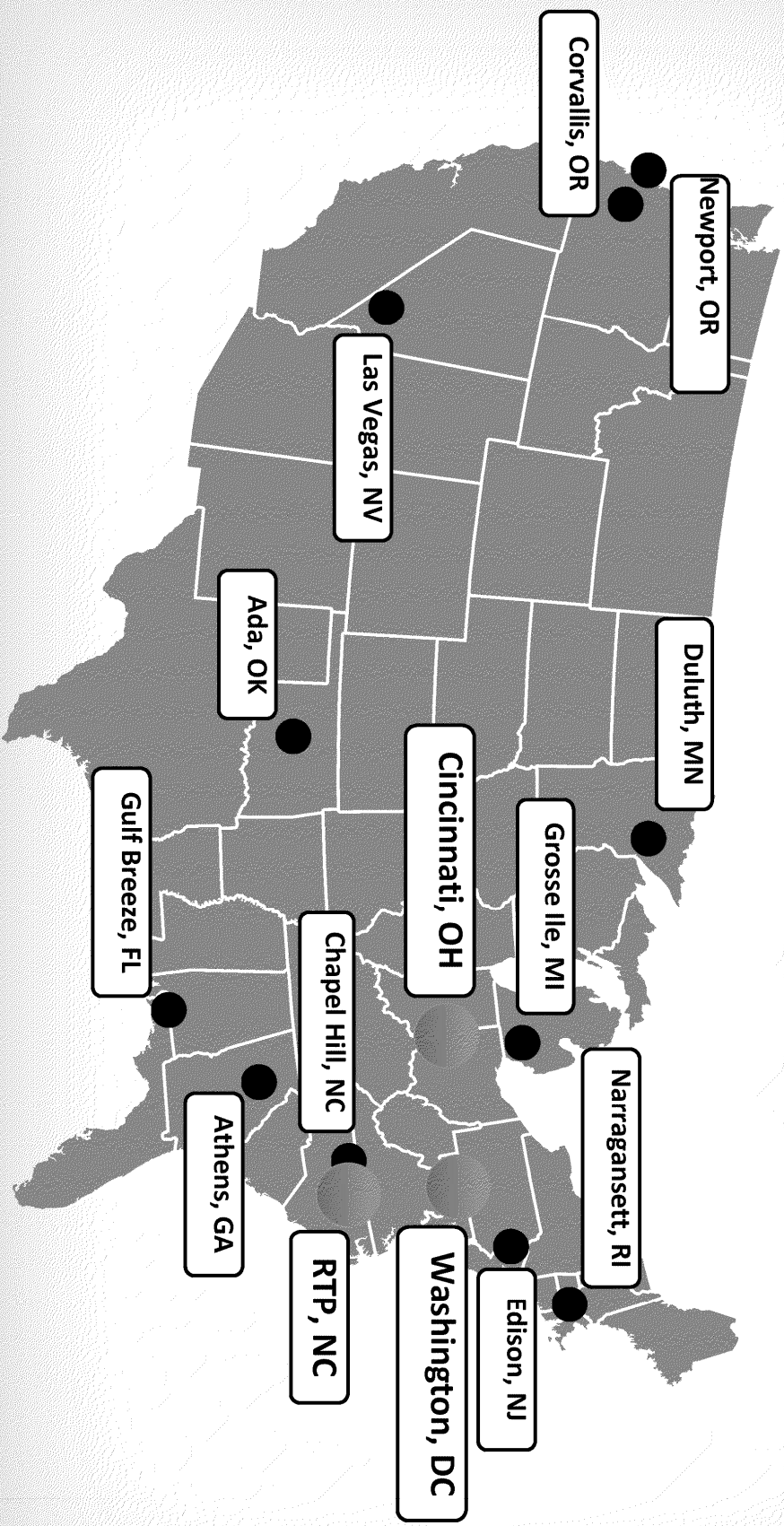


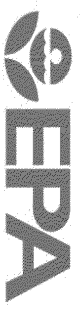
ORD Organizational Chart





ORD Research Facilities



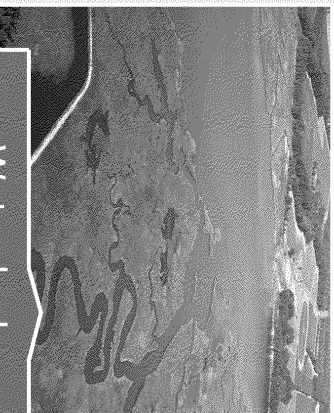


SSWR Research Topics

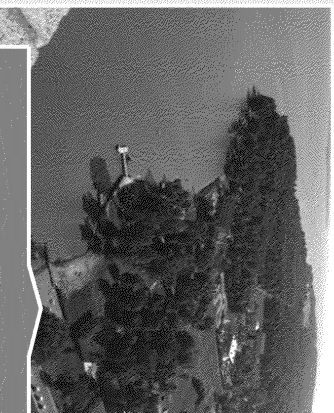
Clean Water Act

Safe Drinking Water Act

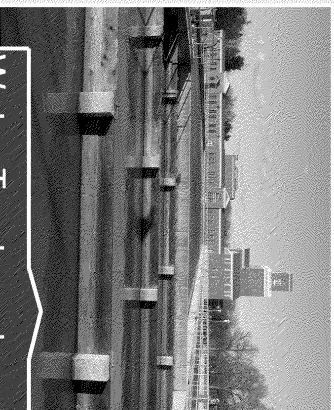
**Watershed
Sustainability**



Nutrients and HABs



**Water Treatment and
Infrastructure**



Main Topic Activities

Advancement of integrated water resource and watershed management approaches, models, and decision-making tools that ensure sufficient supplies of clean water to support economic, environmental, and public health requirements.

Research Priorities

- National Aquatic Resource Surveys
- Recreational Water Quality Criteria
- Aquatic Water Quality Criteria

Watershed Sustainability



Main Topic Activities

Improve the science needed to define appropriate nutrient levels and to develop technologies and management practices to monitor and attain appropriate nutrient loadings.

Provide information and tools that improve the ability of local, state and national stakeholders to manage the risks posed by HABs.

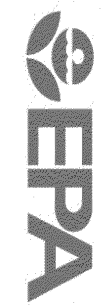


Research Priorities

- Models & relating nutrient loading to impacts
- Conduct water quality standard/aquatic life criteria ("targets") validation studies
- Linkages between N and P with biota, experimental mesocosm studies at Experimental Stream Facility (Ohio)
- Biotic colonization studies in a nearby stream to understand community-level responses to N and P
- Nutrient Enhanced Coastal Acidification and Hypoxia (NECAH)

Nutrients & Harmful Algal Blooms





Cyanobacteria Assessment Network



Problem

How to detect and quantify algal blooms to protect use of U.S. lakes and estuaries?

Action

Create a standard and uniform approach for identification of algal blooms using satellites.

Result

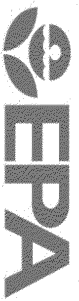
New methods to quantify algal bloom frequency and extent.

Impact

- Applied novel sophisticated tool to assist in management of events that may involve significant risk to the public.
- Improve resource allocations and reduce exposures.

EPA Analytical Methods

- **Method 544:** Determination of microcystins and nodularins in drinking water by LC/MS/MS
- **Method 545:** Determination of cylindrospermopsin and anatoxin-a in drinking water by LC/ESI-MS/MS
- **Method 546:** Determination of microcystins and nodularins in drinking water and ambient water by ELISA
- **Single Laboratory Validated Methods:** Determination of cylindrospermopsin and anatoxin-a and for microcystins and nodularins in ambient freshwaters by LC/MS/MS



Challenging Nutrients Coalition

EPA led interagency collaboration on prize challenges to address nutrients



CHALLENGE	GOAL	RESULT/STATUS
Nutrient Sensor Challenge	Affordable nitrogen and phosphorous sensors 3x price reduction sensors on the to market	Award winning video
Visualize Nutrients	Effective communication/visualization of nutrient data	
Smart Septic Sensor Challenge	Nitrogen sensors to monitor septic system integrity	Breakthrough technology for low-cost nitrogen sensors (U. Connecticut)
Nutrient Reduction Challenge	Recover nitrogen/phosphorous from pork and dairy manure	Prototypes in development
Nutrient Sensor Action Challenge	Demonstrated use of nitrogen/phosphorous sensor data for use in decision making	Stage 1 - 11 teams participated Stage 2- launch 2/18

Main Topic Activities

Develop and evaluate data, approaches, and technologies that will support the promulgation and implementation of federal water regulations and guidance, while also addressing regional, state, and community issues of concern.

Develop and demonstrate best practices and tools for managing stormwater volume and improving water quality, and assess their feasibility.

Cyanotoxins Guidance for drinking water treatment

- Lead
- Develop risk assessment/exposure model in support of Lead and Copper Rule
 - Characterization in distribution/premise plumbing systems and improved methods

- PFAS
- Hazard information
 - Methods development and validation

Small System Development of biological treatment systems for ammonia removal

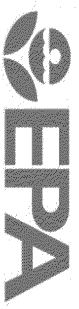
- EPANET
- Advanced extensions for water security, contaminant reactions, and real-time con

- Opportunistic Pathogens
- *Legionella*, *Mycobacterium*
 - Occurrence and detection
 - Copper/silver ionization treatment, UV treatment

- Treatability Database
- Collaborate with OW to develop cost models for inclusion in database

Water Treatment and Infrastructure

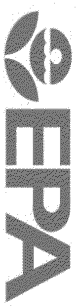




Stormwater Management



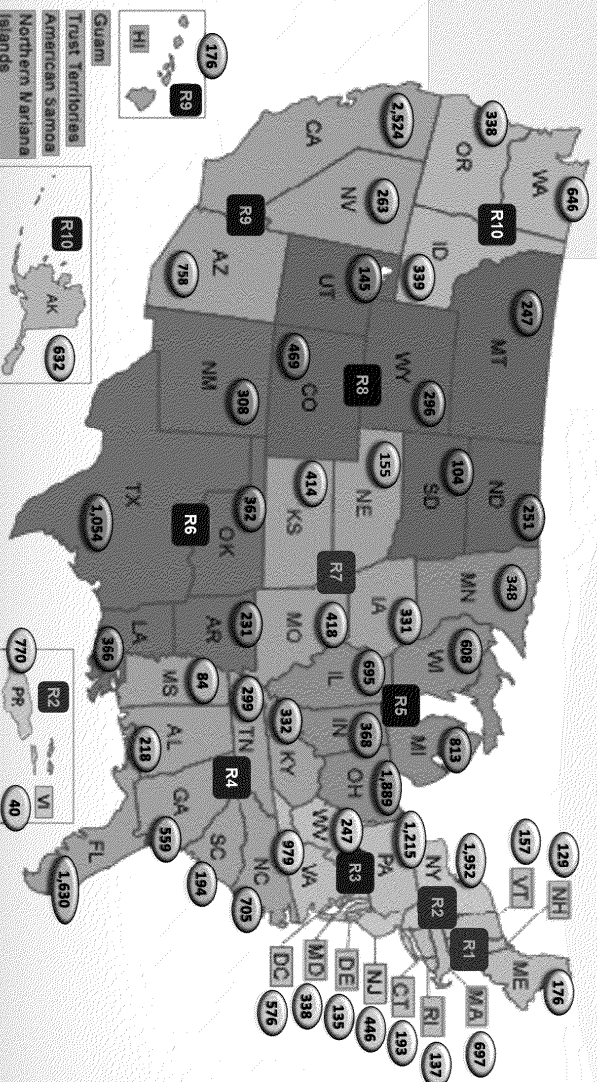
- National Stormwater Calculator (SWC)
- Storm Water Management Model (SWMM)
- Performance assessments of GI/low impact development systems
 - permeable pavement
 - rain gardens
 - swales
- Urban soil characterization for improving GI implementation
- Focused assessments of urban GI on water quantity and quality



Outreach Highlights

- ❖ SSWR Webinar Series
- ❖ Small Systems Monthly Webinar Series
- ❖ Small Systems Annual Workshop
- ❖ EPA Tools and Resources Webinar Series
- ❖ Science Matters Biweekly Newsletter
- ❖ Fact Sheets:

- January 2015 – February 2018
- 29,570 Attendees
 - 18,091 Continuing Ed. Credits



Questions?



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- Update: Forthcoming Proposal to Revise the Definition of "Waters of the United States" & Report Out on In-Person Tribal Technical Workshop. (*Rose Kwok, OW/OWOW*)
 - For more information: <https://www.epa.gov/wotus-rule>
- Update: Tribal Consultation Opportunity, *Draft Informational Document, Modernizing Public Hearings for Water Quality Standard Decisions Consistent with 40 C.F.R. § 25.5* (*Janine Barr, OW/OST*)
 - For more information: <https://tcots.epa.gov>
- Update: Tribal Consultation and Coordination on the National Primary Drinking Water Regulation for Lead and Copper (*Karen Gude, OW*)
 - For more information: <https://tcots.epa.gov>

V. Additional OW Program and Tribal Updates for Upcoming OW or Tribal Activities/Announcements (All) (15 minutes)

- Upcoming Triennial Capacity Development and Operator Certification Workshop in Indianapolis, IN, in August 2018. (*Sam Russell, OW/OGWDW*)
- Planning for Spring NTWC in-person meeting in Washington, DC (*Ann Marie Chischilly & Elaine Wilson, ITEP*)
- Re-launch of NTWC website (<http://www.nau.edu/ntwc>) (*Ann Marie Chischilly & Elaine Wilson, ITEP*)
- Reminder: Planning for 2018 Tribal Lands and Environment Conference (*Karen Gude, OW*)
 - Spokane Convention Center in Spokane, WA, August 13-16, 2018; Deadline for Session Proposals: May 4, 2018
 - More information: https://www7.nau.edu/itep/main/Conferences/confr_tlef

VI. Next Steps

- Reminder: Next NTWC & NTWC/EPA calls are scheduled for April 11, 2018.



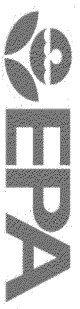
Office of Research and Development

SAFE AND SUSTAINABLE WATER RESOURCES RESEARCH PROGRAM

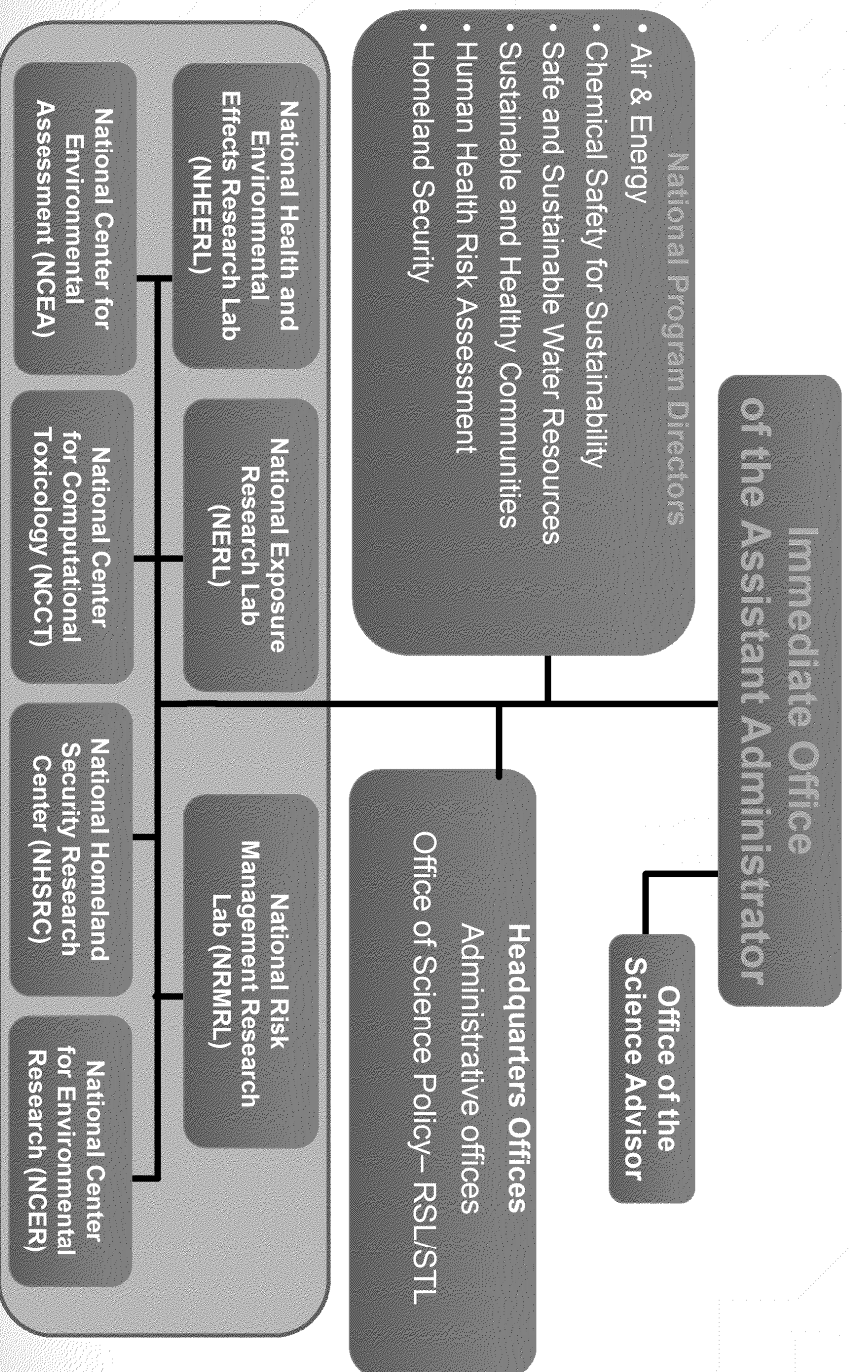


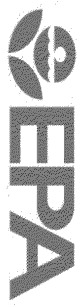
National Tribal Water Council

March 14, 2018

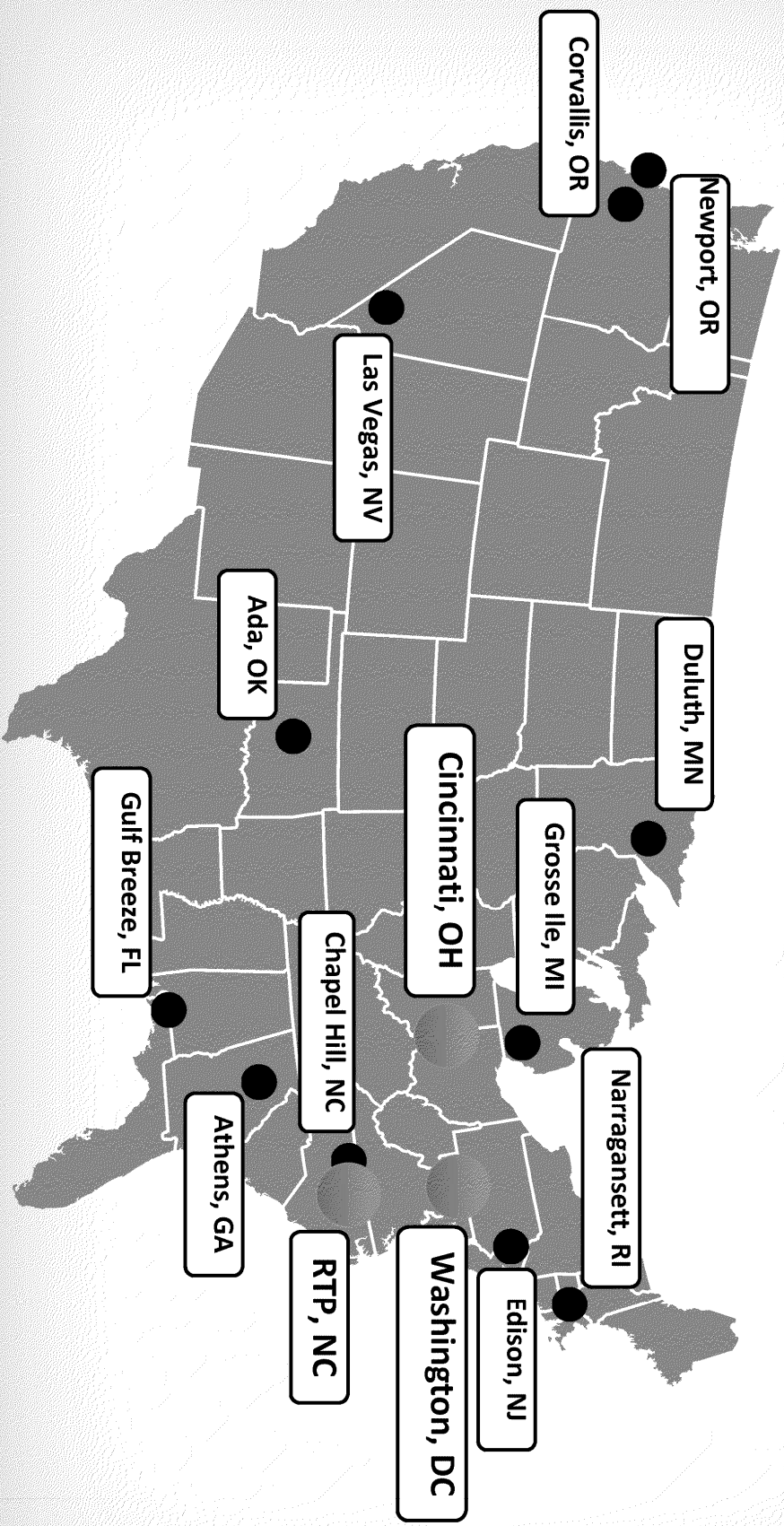


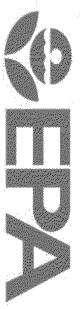
ORD Organizational Chart





ORD Research Facilities



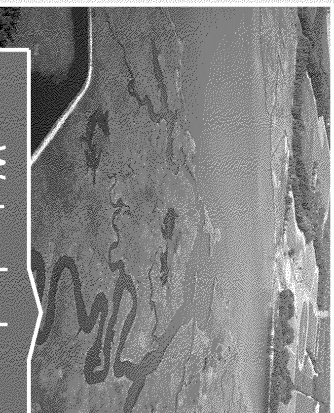


SSWR Research Topics

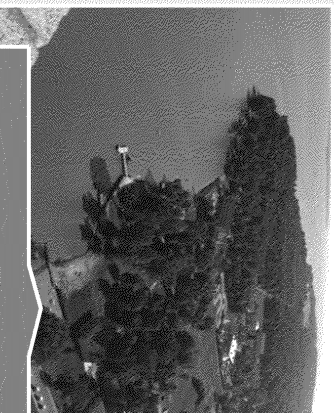
Clean Water Act

Safe Drinking Water Act

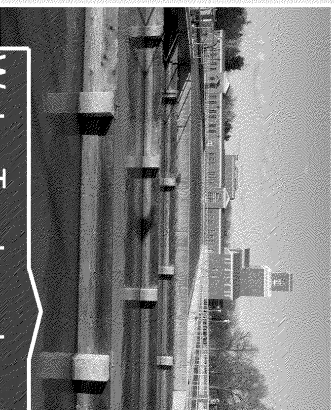
**Watershed
Sustainability**



Nutrients and HABs



**Water Treatment and
Infrastructure**



Main Topic Activities

Advancement of integrated water resource and watershed management approaches, models, and decision-making tools that ensure sufficient supplies of clean water to support economic, environmental, and public health requirements.

Research Priorities

- National Aquatic Resource Surveys
- Recreational Water Quality Criteria
- Aquatic Water Quality Criteria

Watershed Sustainability



Main Topic Activities

Improve the science needed to define appropriate nutrient levels and to develop technologies and management practices to monitor and attain appropriate nutrient loadings.

Provide information and tools that improve the ability of local, state and national stakeholders to manage the risks posed by HABs.



Research Priorities

- Models & relating nutrient loading to impacts
- Conduct water quality standard/aquatic life criteria ("targets") validation studies
- Linkages between N and P with biota, experimental mesocosm studies at Experimental Stream Facility (Ohio)
- Biotic colonization studies in a nearby stream to understand community-level responses to N and P
- Nutrient Enhanced Coastal Acidification and Hypoxia (NECAH)

Nutrients & Harmful Algal Blooms





Cyanobacteria Assessment Network




Problem

How to detect and quantify algal blooms to protect use of U.S. lakes and estuaries?

Action

Create a standard and uniform approach for identification of algal blooms using satellites.

Result

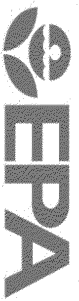
New methods to quantify algal bloom frequency and extent.

Impact

- Applied novel sophisticated tool to assist in management of events that may involve significant risk to the public.
- Improve resource allocations and reduce exposures.

EPA Analytical Methods

- **Method 544:** Determination of microcystins and nodularins in drinking water by LC/MS/MS
- **Method 545:** Determination of cylindrospermopsin and anatoxin-a in drinking water by LC/ESI-MS/MS
- **Method 546:** Determination of microcystins and nodularins in drinking water and ambient water by ELISA
- **Single Laboratory Validated Methods:** Determination of cylindrospermopsin and anatoxin-a and for microcystins and nodularins in ambient freshwaters by LC/MS/MS



Challenging Nutrients Coalition

EPA led interagency collaboration on prize challenges to address nutrients



CHALLENGE	GOAL	RESULT/STATUS
Nutrient Sensor Challenge	Affordable nitrogen and phosphorous sensors 3x price reduction sensors on the to market	Award winning video
Visualize Nutrients	Effective communication/visualization of nutrient data	
Smart Septic Sensor Challenge	Nitrogen sensors to monitor septic system integrity	Breakthrough technology for low-cost nitrogen sensors (U. Connecticut)
Nutrient Reduction Challenge	Recover nitrogen/phosphorous from pork and dairy manure	Prototypes in development
Nutrient Sensor Action Challenge	Demonstrated use of nitrogen/phosphorous sensor data for use in decision making	Stage 1 - 11 teams participated Stage 2- launch 2/18

Main Topic Activities

Develop and evaluate data, approaches, and technologies that will support the promulgation and implementation of federal water regulations and guidance, while also addressing regional, state, and community issues of concern.

Develop and demonstrate best practices and tools for managing stormwater volume and improving water quality, and assess their feasibility.

Cyanotoxins Guidance for drinking water treatment

- Lead
- Develop risk assessment/exposure model in support of Lead and Copper Rule
 - Characterization in distribution/premise plumbing systems and improved methods

- PFAS
- Hazard information
 - Methods development and validation

Small System Development of biological treatment systems for ammonia removal

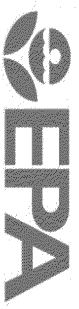
- EPANET
- Advanced extensions for water security, contaminant reactions, and real-time con

- Opportunistic Pathogens
- *Legionella*, *Mycobacterium*
 - Occurrence and detection
 - Copper/silver ionization treatment, UV treatment

- Treatability Database
- Collaborate with OW to develop cost models for inclusion in database

Water Treatment and Infrastructure

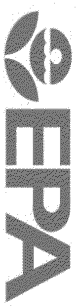




Stormwater Management



- National Stormwater Calculator (SWC)
- Storm Water Management Model (SWMM)
- Performance assessments of GI/low impact development systems
 - permeable pavement
 - rain gardens
 - swales
- Urban soil characterization for improving GI implementation
- Focused assessments of urban GI on water quantity and quality



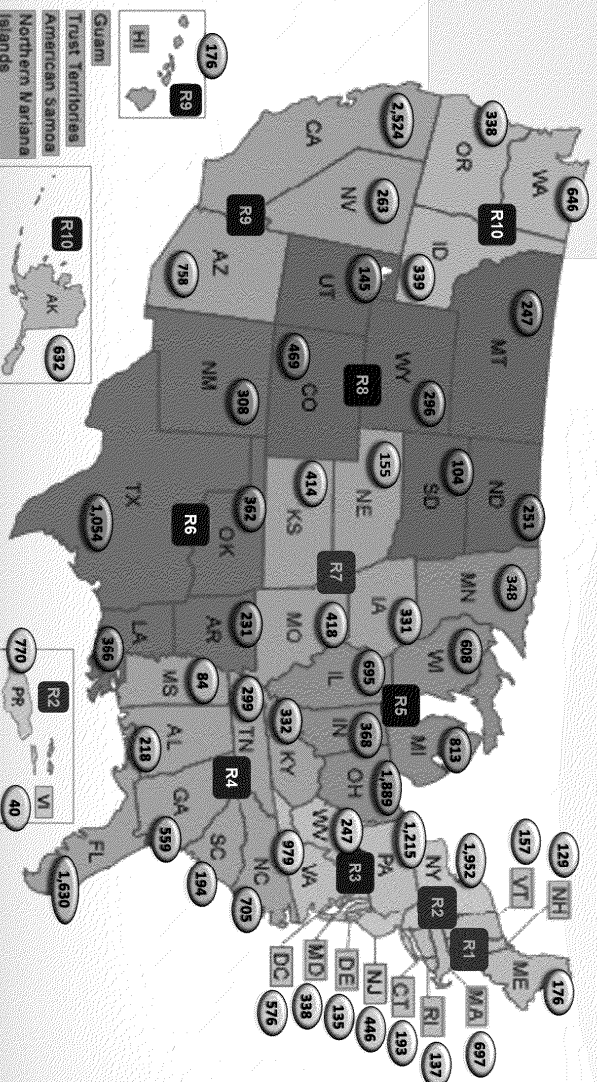
Outreach Highlights

- ❖ SSWR Webinar Series
- ❖ Small Systems Monthly Webinar Series
- ❖ Small Systems Annual Workshop
- ❖ EPA Tools and Resources Webinar Series
- ❖ Science Matters Biweekly Newsletter
- ❖ Fact Sheets:



January 2015 – February 2018

- 29,570 Attendees
- 18,091 Continuing Ed. Credits



Questions?



EPA Policy Goals, Regulatory Reform, and Enforcement: What Does the Future Hold?

Clean Water Act: Law and Regulation 2017

3:00pm – 4:30pm, Monday, December 4

Washington, D.C.

1. Panel Description.

As the Trump Administration's EPA settles into 1200 Pennsylvania Avenue it brings a new perspective, a shift in policy focus, and a different way of doing business. This panel will draw on current and former EPA personnel to explore EPA's policy and enforcement priorities in the context of the Clean Water Act and the challenges it may face. Issues to be explored include the substantive issues beyond the "waters of the United States" rulemaking that are a priority for the Agency, any changes in the focus of EPA's enforcement priorities, and any shifts in the way the Agency is organized and functions, among other issues.

2. Moderator & Panelists.

- a. *Moderator:* Samuel Brown, Senior Attorney, Hunton & Williams, LLP, San Francisco, CA
- b. Samantha Dravis, Senior Counsel and Associate Administrator, Office of Policy, U.S. Environmental Protection Agency, Washington, D.C.
- c. Patrick Traylor, Deputy Assistant Administrator, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, Washington, D.C.
- d. Mark A. Ryan, Ryan & Kuehler PLLC, former EPA attorney, Winthrop, WA

3. Panel Format (90 minutes).

- a. S. Brown (10 minutes): introduce panelists and frame the topics of the panel.
- b. Moderated Questions on EPA Policy and Operational Priorities (15 minutes).
- c. Moderated Questions on EPA Substantive Priorities for the Office of Water (15 minutes).
- d. Moderated Questions on EPA Enforcement Priorities (30 minutes).
- e. Questions from Audience (20 minutes).

4. Representative Moderator Questions.

- a. Moderated Questions on EPA Policy and Operational Priorities (15 minutes)
 - i. How does the Office of Policy fit within EPA's organizational structure?
 - ii. What is the role and responsibility of the Office of Policy?

- iii. Administrator Pruitt has described the Agency's key principles to include (1) the importance of process; (2) adherence to the rule of law; and (3) the applicability of cooperative federalism. Can you explain what each of those principles means and how they will be incorporated into the Agency's work, generally, and in the context of the CWA programs?
 - iv. In October, Administrator Pruitt signed a memorandum on "sue and settle," can you explain the intent and likely impact of this memorandum?
 - v. Will the October memorandum likely result in EPA litigating more challenges (and reaching a decision on the merits), as opposed to a settlement and a consent decree?
 - vi. There has been talk of re-organization of the Agency (*e.g.*, consolidation of EPA Regions, placement of enforcement back into the program offices, etc.); will there be any re-organization of the Agency?
- b. Moderated Questions on EPA Substantive Priorities for the Office of Water (15 minutes).
 - i. Looking past WOTUS, what are the Agency's substantive priorities for the Office of Water? What other rulemaking will the public likely see from the Office of Water in the next year and over the course of the next 3 years?
 - ii. There have been public statements related to the Office of Water conducting rulemaking related to the CWA 404 permitting program (separate from the WOTUS rulemaking), what is the Agency looking to address as part of any 404 permitting rulemaking?
 - iii. There is significant Circuit Court litigation related to what EPA has described as the "direct hydrologic connection" theory of CWA liability. Does EPA intend to provide additional guidance, conduct rulemaking, or otherwise further address this issue?
 - iv. President Trump has emphasized infrastructure as a priority; will this EPA prioritize water-related infrastructure and, if yes, what are its plans for doing so?
- c. Moderated Questions on EPA Enforcement Priorities (30 minutes).
 - i. What are EPA's CWA enforcement priorities?
 - ii. What enforcement metrics will OECA examine to determine if the program is a "success"?
 - iii. Does OECA envision the States taking a bigger role in enforcement? If yes, what types of cases will EPA focus its enforcement efforts?
 - iv. Does OECA intend to shift focus from the current CWA National Enforcement Initiatives (NEI) that were finalized in the prior Administration?
 - v. How does OECA view the future of the very mature NEI focused

on municipal combined and sanitary sewer systems? Will it still be a priority?

- vi. Is “Next Generation Compliance” still a priority for OECA?
- vii. Does OECA intend to continue to push for “mitigation” to be part of consent decrees?
- viii. If existing CWA consent decrees do not align with Administrator Pruitt’s key principles of (1) process; (2) rule of law; and (3) cooperative federalism, does OECA envision entertaining modifications of those consent decrees?